TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE

FISCAL NOTE

HB 588 - SB 783

April 3, 2009

SUMMARY OF BILL: Codifies the definition of lesser-included offense. Eliminates from the judicial definition currently applied by the Tennessee Supreme Court a lesser offense that contains an element establishing a mental state indicating a lesser degree of culpability or a less serious harm to the same person, property, or public interest than the charged offense.

ESTIMATED FISCAL IMPACT:

State Expenditures – Net Impact - Not Significant

Assumptions:

- The Tennessee Supreme Court judicially adopted a definition of lesser included offenses (LIOs) in *State v. Burns,* 6 S.W.3d 453 (Tenn. 1999). This bill would replace the *Burns* definition with a more limited statutory definition.
- The inability of the trial court to charge LIOs that are currently available will reduce the number of cases in which a defendant is convicted of an LIO. The number of cases in which the unavailability of an LIO will be determinative of the outcome requires speculation about actions of future juries and cannot reasonably be determined.
- In some cases, juries may convict a defendant of the more serious charge due to the unavailability of the LIO. In these cases, incarceration costs will increase as a result of this bill because offenders will be imprisoned for longer periods. In other cases, the jury may acquit a defendant due to the unavailability of the LIO. In these cases, incarceration costs will decrease. The net impact of these actions requires speculation about actions of future juries and cannot reasonably be determined. The net fiscal impact on incarceration costs therefore cannot reasonably be determined, but is assumed to be not significant.
- According to the Department of Correction, there will be no increase in incarceration costs as a result of this bill.

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CERTIFICATION:

This is to duly certify that the information contained herein is true and correct to the best of my knowledge.

James W. White, Executive Director

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